IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 21ST NOVEMBER 2007 / 30TH KARTHIKA 1929

Bail Appl..No. 7149 of 2007()

CRIME NO.133/07 OF MEPPAYUR POLICE STATION
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PETITIONER/ ACCUSED:
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1. BASHEER AGE4D 24 YEARS,
S/O.MAYANKUTTY HAJI, KANHIRAKKUNI HOUSE,
AVALA AMSOM DESOM, PERAMBARA, KOZHIKODE DISTRICT.

2. NASEEMA, AGED 23 YEARS,
W/O.MOHAMMED RESIDING AT ANAKKAT KOYILOTH
KAKKATTIL, THIKKUNI P.O., KOZHIKODE DISTRICT.

BY ADV. SRI.A.RANJITH NARAYANAN
SRI.S.K.SAJU

RESPONDENTS: RESPONDENT:

STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 21/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 7149 of 2007

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Dated this the 21st day of November, 2007

O R D E R

Application for anticipatory bail. The petitioners are the husband and sister-in-law of the victim. The marriage between the spouses took place on 14.12.2006 and within a year the parties have come before the criminal court. The defacto complainant alleged that the petitioners have been guilty of matrimonial cruelty of culpable variety against her. Crime has been registered on the basis of a complaint filed before the Circle Inspector of Police, which was forwarded to the local police station for necessary action. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners prays, the learned Prosecutor does not oppose the said prayer and I am satisfied that directions under Section 438 Cr.P.C. can be issued in favour of the petitioners. In coming to this conclusion I take note of the reality that arrest and incarceration of the

petitioners is likely to mar all possibilities of reconciliation of marital relationship. I do also take note of the submission of the learned Prosecutor that defacto complainant has not suffered any external physical injury as the consequence of the alleged physical cruelty inflicted. Subject to appropriate conditions, anticipatory bail can be granted to the petitioners.

4. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioners shall surrender before the learned Magistrate on 28.11.2007 at 11 a.m. The learned Magistrate shall release the petitioners on regular bail on condition that they execute bonds for Rs.25,000/- (Rupees twenty five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m. and 1 p.m. on 29.11.07 and 30.11.2007 and thereafter on all Mondays and Fridays between 10 and 12 noon for a period of one months and subsequently as and when directed by the Investigating Officer in writing to do so.

(c) If the petitioners do not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 28.11.07 and the police shall be at liberty thereafter to arrest the petitioners and deal with them in accordance with law.

(d) If the petitioners were arrested prior to their surrender on 28.11.2007 as directed in clause (1) above, they shall be released on bail on their executing bonds for Rs.25,000/- each without any surety undertaking to appear before the learned Magistrate on 28.11.2007.

(R. BASANT)

Judge

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